

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN/WESTERN DIVISION**

_____ ,

Plaintiff(s)

vs.

Case No. _____

_____ ,

Defendant(s)

FINAL PRETRIAL ORDER (Required Form)¹

The Final Pretrial Conference is scheduled on _____ at _____
m., pursuant to Rule 16, Federal Rules of Civil Procedure.

I. APPEARANCES:

- A. For Plaintiff(s):
- B. For Defendant(s):
- C. For Third Party(ies), if any:

II. NATURE OF ACTION AND JURISDICTION:

- A. This is an action for:
- B. The jurisdiction of the Court is invoked under Title _____,
United States Code, Section _____.
- C. The jurisdiction of the Court (is) (is not) disputed.

¹A proposed joint Final Pretrial Order following this format must be jointly prepared and submitted by counsel to the Clerk of Courts no later than one (1) week prior to the Final Pretrial Conference.

III. TRIAL INFORMATION:

- A. The estimated length of trial is _____ days
- B. (Jury) (Court Trial) is set for _____ pursuant to the General Order on Trial Assignment.

IV. AGREED STATEMENTS AND LISTS:

A. General Nature of the Claims of the Parties

- 1) Plaintiff Claims: set out a brief summary without detail; an itemized statement of special damages should be included.
- 2) Defendant Claims: set out a brief summary without detail.
- 3) All Other Parties' Claims: same type of statement where third parties are involved.

B. Uncontroverted Facts

"The following facts are established by admissions in the pleadings or by stipulations of counsel." (Set forth uncontroverted or uncontested facts).

C. Issues of Fact and Law

- 1) "Contested Issues of Fact: The contested issues of fact remaining for determination are: (list)"
- 2) "Contested Issues of Law: The contested issues of law in addition to those implicit in the foregoing issues of fact, are: (list), **OR:** There are no special issues of law reserved other than those implicit in the foregoing issues of fact."

If the parties are unable to agree on what the contested issues of fact or law are, their respective contentions as to what the issues are shall be set forth separately and clearly labeled.

D. Witnesses

- 1) "Plaintiff will call or will have available at trial: (list)"
- 2) "Defendant will call or will have available at trial: (list)"
- 3) Same language above is suggested for third parties, if any.

- 4) "The parties reserve the right to call rebuttal witnesses whose testimony could not reasonably be anticipated without prior notice to opposing counsel."
- 5) In the event other witnesses are to be called at trial, a statement of their names and addresses and the general subject matter of their testimony will be served upon opposing counsel and filed with the Court at least one (1) day prior to trial.

NOTE:

- a) Only witnesses listed in the Final Pretrial Order will be permitted to testify at trial, except witnesses called solely for impeachment purposes, or for good cause shown.
- b) A brief synopsis of the witnesses' testimony must be given – i.e., "Will testify to pain and suffering", "Will testify to lost profits", etc.
- c) Leave to call additional witnesses may be granted by the Court in unusual situations. Counsel seeking such leave must file a Motion to Add Witnesses and serve a copy upon opposing counsel with names, addresses, and an offer of proof of such witness' testimony within twenty-four (24) hours after the need to call such witness becomes known.
- d) The witnesses need not be called in the order listed.

E. Expert Witnesses

The parties are limited to the following number of expert witnesses, including treating physicians, whose names have been disclosed and reports furnished to opposing counsel:

Plaintiff _____

Defendant _____

Counsel prepared a resume of each expert's qualifications in accordance with Appendix A herein.

F. Exhibits

The exhibit list shall be prepared prior to trial.. Exhibits to be admitted without objection should be listed first, followed by a listing of exhibits to which there may be an objection, noting by whom the objection is made (only if there are multiple parties), the nature of the objection, and the authority supporting the objection. Exhibit markers should be affixed to all exhibits at the time they are shown to opposing counsel during the preparation of the proposed Final Pretrial Statement. The exhibit stickers should be affixed to the upper right corner, whenever possible.

All exhibits are to be delivered to the Courtroom Deputy not later than three (3) days prior to the commencement of trial. Any demonstrative exhibits are to be presented to opposing counsel one (1) week prior to trial.

Except for good cause shown, the Court will not permit the introduction of any exhibits unless they have been listed in the proposed Final Pretrial Order, with the exception of exhibits to be used solely for impeachment purposes.

The proposed Final Pretrial Order should list the exhibits as follows:

Appendix B Joint Exhibits
Appendix C Plaintiff Exhibits
Appendix D Defendant Exhibits
Appendix E Third-Party Exhibits

The attached forms may be detached and used.

G. Depositions

The proposed Final Pretrial Order shall list depositions to be read into evidence and any objections thereto identifying the objecting party, portions objected to, and grounds therefor. All irrelevant and redundant matters and all colloquy between counsel contained in the deposition must be eliminated when the deposition is read.

“Testimony of the following witnesses will be offered by deposition (indicate by written form or video tape).”

If none will be presented, indicate so.

H. Discovery

Except for good cause shown, all discovery shall be completed before the Final Pretrial Order is signed by the Court. If discovery has not been completed, the proposed Final Pretrial Order shall state what discovery is yet to be done by each side, when it is scheduled, when it will be completed and whether objections or motions are likely with respect to the uncompleted discovery.

Discovery has been completed

OR

Discovery is to be completed by (give date)

OR

The following provisions were made for discovery (specify)

I. Pending Motions

"The following motions are pending at this time,"

OR

"There are no pending motions at this time."

J. Miscellaneous Orders

1) Set forth any orders not properly includable elsewhere;

OR

2) The foregoing stipulations and statements were amended at the final pretrial conference as follows:_____.

V. Modification

This Final Pretrial Order may be modified at the trial of this action, or prior thereto, to prevent manifest injustice. Such modification may be made by application of counsel or on motion of the Court.

VI. Jury Instructions and Trial Briefs

SEVEN (7) DAYS prior to the Final Pretrial Conference, the parties shall jointly submit a complete set of jury instructions, indicating 1) agreed instructions; 2) instructions proposed by plaintiff, but opposed by defendant; and 3) instructions proposed by defendant, but opposed by plaintiff. All proposed jury instructions shall be submitted in hard copy and to the Court email address at watson_chambers@ohsd.uscourts.gov. Each instruction should be submitted in WordPerfect for Windows 6.1 or later, on a separate 8.5" x 11" sheet of paper identified as "Plaintiff(s) [Defendant(s)] Requested Instruction No. ____." All proposed instructions shall be supported by citations to authority at the time submitted to the Court. Grounds for objections need not be articulated at this time, but will be addressed at the Final Pretrial Conference. If counsel wish to utilize special verdict forms or submit interrogatories to the jury, these should also be filed along with the jury instructions. The original of the request for special instructions must be filed with the Clerk of Court, prior to presentation to the Court.

There is reserved to counsel the right to submit supplemental requests for instructions during the trial or at the conclusion of the evidence on matters that cannot be reasonably anticipated.

Trial briefs shall be filed with the Clerk of Courts one (1) week after the Final Pretrial Conference, but in no event, later than noon of the business day preceding trial.

VII. Settlement Efforts

(describe the extent and status of settlement negotiations) _____.

VIII. Additional Action Taken

MICHAEL H. WATSON
United States District Judge

Date:_____

Counsel for Plaintiff

Counsel for Defendant

Counsel for _____

APPENDIX A

QUALIFICATIONS OF EXPERT WITNESS

The following is intended to qualify your witness as an expert. It will be read to the jury in the form given. The Court will reserve the right to remove extraneous or repetitious material.

Name_____

Address_____

Present Title_____

Duties_____

Education and Degrees_____

Teaching Experience_____

Job Experience_____

Associations and Societies_____

Publications_____

Honors_____

Other Pertinent Information_____

APPENDIX E

Joint Exhibits or Plaintiff and Defendant

[illegible]

- () Appendix C - Exhibits of the Plaintiff
- () Appendix D - Exhibits of the Defendant
- () Appendix E - Exhibits of Other Parties.

[illegible]

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